

**1-02 BID PROCEDURES AND CONDITIONS****1-02.1 Prequalification of Bidders**

The Contracting Agency will provide a Bid Proposal Form only after a prospective Bidder submits a “Standard Questionnaire and Financial Statement.” This questionnaire enables the Contracting Agency to decide whether or not the Bidder is qualified to perform Highway, road, or other public work. The questionnaire shall be sworn to before a person authorized to take oaths.

On the basis of this questionnaire, the Contracting Agency will either specify the type and amount of Work it considers the prospective Bidder prequalified to perform or advise the prospective Bidder of the reasons they failed to be prequalified. To remain prequalified, the Bidder must submit an updated questionnaire once a year and supplements whenever required by the Contracting Agency.

A submittal deadline applies to any prospective Bidder not prequalified or from whom a supplemental questionnaire is due. To receive consideration for issuance of a Bid Proposal Form on a specific project, the questionnaire (or supplement) must be received by the Prequalification Engineer no less than 15-days prior to the scheduled Bid opening.

The Contracting Agency may withdraw a Bidder’s prequalification or reduce its amount if:

1. The extent of other work the Bidder has under Contract (Contracting Agency or otherwise) justifies such action, or
2. Past or present work on a Contracting Agency Contract has been less than satisfactory.

If a Bidder’s questionnaire does not contain sufficient information, the Contracting Agency may refuse to provide a Bid Proposal Form and disregard any Bid submitted. After opening Bids, the Contracting Agency may decide that a prequalified Bidder is not responsible and may refuse to accept the Bid on that basis. Such a refusal will be conclusive unless the Bidder appeals within five days to the Superior Court of Thurston County. Any appeal shall be heard within ten days after it is filed and shall provide at least five days’ notice to the Contracting Agency.

The Bidder shall ensure that the combination of the Bid amount and other Contract work with the Contracting Agency does not exceed the prequalification amount. If this combination does exceed the prequalification amount, the Contracting Agency may determine the Bidder to be not responsible and refuse to Award a Contract.

Two or more prospective Bidders may, in a joint venture, prequalify and Bid jointly on a single Contract. Each shall have filed a “Standard Questionnaire and Financial Statement.” Together they shall also file a standard form of “Individual Project Statement of Joint Venture” and a joint venture agreement in a form acceptable to the Contracting Agency.

To Bid jointly on a continuous joint venture on more than one Contract, two or more prospective Bidders shall submit:

1. A “Standard Questionnaire and Financial Statement” compiled for the joint venture;
2. A “Standard Questionnaire and Financial Statement” for each member (if the Contracting Agency has no copy on file); and

3. A copy of the "Joint Venture Agreement" signed by each member of the joint venture and naming each person authorized to sign documents on its behalf. (If any member is a corporation, a corporate resolution shall accompany the agreement. This resolution shall authorize the joint venture agreement and name the officer(s) authorized to sign the joint venture agreement or Contract on behalf of the corporation.)

The Contracting Agency will treat the continuing joint venture as a new firm and decide its prequalification on that basis.

Any joint venture and each of its members is subject to [Section 1-02.14](#).

### 1-02.2 Plans and Specifications

The Contracting Agency will place review copies of the Plans and Specifications on file in the offices of:

1. All Regional Administrators of the Department,
2. The County Engineer of the county in which the Work is located, and
3. These plans service offices of the Associated General Contractors of America: Seattle, Spokane, and Tacoma, Washington.

Prospective Bidders may purchase Plans and Specifications from the Department of Transportation in Olympia, Washington, for the fee given in the call for Bids. The fee shall accompany each request for Plans. Checks shall be payable to the State of Washington, Department of Transportation.

After Award of the Contract, the Plans and Specifications will be issued without charge on the following basis:

To Prime Contractor	No. of Sets	Basis of Distribution
Reduced Plans (11"x 17") and Special Provision	10	Furnished automatically upon Award.
Additional reduced Plans (11" x 17") and Special Provision	10	Furnished only upon request for projects with more than 100 plan sheets.
Large Plans (22" x 34") and Special Provisions	1	Furnished <u>automatically</u> upon <u>award</u> .
Additional large Plans (22" x 34") and Special Provisions	1	Furnished only upon request for projects with more than 100 plan sheets.
To Subcontractors and Suppliers	No. of Sets	Basis of Distribution
Reduced Plans (11"x 17") and accompanying Special Provisions	1	Furnished only upon request by the Prime Contractor for an approved Subcontractor or material supplier.

Additional Plans may be purchased by payment of the current rates.

**1-02.3 Estimated Quantities**

The quantities shown in the Proposal Form and the Contract Forms are estimates and are stated only for Bid comparison purposes. The Contracting Agency does not warrant expressly or by implication, that the actual quantities of Work will correspond with those estimates. Payment will be made on the basis of the actual quantities of each item of Work completed in accordance with the Contract requirements.

**1-02.4 Examination of Plans, Specifications, and Site of Work****1-02.4(1) General**

The Bidder shall carefully examine the Bid Documents as defined in Section 1-01.3. Submittal of a Bid shall be conclusive evidence that the Bidder has made these examinations and understands all requirements for the performance of the completed Work. The Bidder further warrants, agrees, and acknowledges by submitting a Bid that it:

1. Has taken steps reasonably necessary to ascertain the nature and location of the Work;
2. Has investigated and satisfied itself as to the general and local conditions which can affect the Work or its cost, including but not limited to:
  - a. conditions bearing upon acquisition, transportation, disposal, handling, and storage of materials;
  - b. the availability of labor, materials, water, electric power, and roads;
  - c. uncertainties of weather, river stages, tides, or similar physical conditions at the site;
  - d. the conformation and condition of the ground;
  - e. the character of equipment and facilities needed preliminary to and during Work performance; and
  - f. the site biological hazards and associated physical hazards.
3. Has satisfied itself as to the character, quality, and quantity of surface and subsurface materials or obstacles to be encountered insofar as this information is reasonably ascertainable from an inspection of the Work site (including material sites) as well as from the Bid Documents and other information made a part of this Contract; and
4. Has satisfied itself as to the adequacy of time allowed for the completion of the physical Work on the Contract.

Any failure of the Bidder to take the actions described and acknowledged in this clause shall not relieve the Bidder from responsibility for estimating properly the difficulty and cost of successfully performing the Work, or from proceeding to successfully perform the Work without additional expense to the Contracting Agency.

The Bidder agrees that the Contracting Agency shall not be liable to it on any claim for additional payment or additional time or any claim whatsoever if the claim directly or indirectly results from the Bidder's failure to investigate and familiarize itself sufficiently with the conditions under which the Contract is to be performed.

The Bidder shall be familiar and comply with all Federal, State, tribal, and local laws, ordinances, and regulations which might affect those engaged in the Work. The Contracting Agency will not consider any plea of misunderstanding or ignorance of such requirements.

Bid prices shall reflect what the Bidder anticipates to be the cost of completing the Work, including methods, materials, labor, and equipment. Except as the Contract may provide, the Bidder shall receive no payment for any costs that exceed those in the Bid prices.

Prospective Bidders are advised that projects with Work on or adjacent to water may require insurance coverage in compliance with:

1. The Longshoremen's and Harbor Worker's Compensation Act (administered by U.S. Department of Labor), or
2. The State Industrial Insurance (administered by the Washington State Department of Labor and Industries), or
3. Both.

The Contractor shall bear all cost for such insurance as provided in [Section 1-07.10](#).

No Claim shall be allowed because of any ambiguity in the Contract if:

1. The Bidder discovers an ambiguity but fails to notify the Contracting Agency; or
2. The Bidder failed to discover a patent ambiguity that would be discovered by a reasonably prudent contractor in preparing its Bid.

Any prospective Bidder desiring an explanation or interpretation of the Bid Documents, must request the explanation or interpretation in writing soon enough to allow a written reply to reach all prospective Bidders before the submission of their Bids. Oral explanations, interpretations, or instructions given by anyone before the Award of a Contract will not be binding on the Contracting Agency. Any information given a prospective Bidder concerning any of the Bid Documents will be furnished to all prospective Bidders as an Addendum if that information is deemed by the Contracting Agency to be necessary in submitting Bids or if the Contracting Agency concludes that the lack of the information would be prejudicial to other prospective Bidders.

#### **1-02.4(2) Subsurface Information**

If the Contracting Agency has made subsurface investigation of the site of the proposed Work, the boring log data and soil sample test data accumulated by the Contracting Agency will be made available for inspection by the Bidders. The boring logs shall be considered as part of the Contract. However, the Contracting Agency makes no representation or warranty expressed or implied that:

1. The Bidders' interpretations from the boring logs are correct;
2. Moisture conditions and indicated water tables will not vary from those found at the time the borings were made; and
3. The ground at the location of the borings has not been physically disturbed or altered after the boring was made.

The Contracting Agency specifically makes no representations, guarantees, or warranties as to the condition, materials, or proportions of the materials between the specific borings regardless of any subsurface information the Contracting Agency may make available to the prospective Bidders.

The availability of subsurface information from the Contracting Agency shall not relieve the Bidder or the Contractor from any risks or of any duty to make examinations and investigations as required by [Section 1-02.4\(1\)](#) or any other responsibility under the Contract or as may be required by law.

### **1-02.5 Proposal Forms**

At the request of a prequalified Bidder, the Contracting Agency will provide a Proposal Form for any project on which the Bidder is eligible to Bid.

The Proposal Form will identify the project and its location and describe the Work. It will also list estimated quantities, units of measurement, the items of Work, and the materials to be furnished at the unit Bid prices. The Bidder shall complete spaces on the Proposal Form that call for unit prices, extensions, the total Bid amount, signatures, date, acknowledgment of Addenda, and the Bidder's address. The required certifications are included as part of the Proposal Form.

### **1-02.6 Preparation of Proposal**

The Contracting Agency will accept only those Proposals properly executed on forms it provides. Unless it approves in writing, the Contracting Agency will not accept Proposals on forms attached to the Plans and stamped "Informational".

All prices shall be in legible figures (not words) written in ink or typed. The Proposal shall include:

1. A unit price for each item (omitting digits more than four places to the right of the decimal point),
2. An extension for each unit price (omitting digits more than two places to the right of the decimal point), and
3. The total Contract price (the sum of all extensions).

In the space provided on the signature sheet, the Bidder shall confirm that all Addenda has been received.

The Bidder shall submit a completed "Disadvantaged, Minority or Women's Business Enterprise Certification" if it applies.

The Bidder shall submit with the Bid a list of:

1. Subcontractors who will perform the work of heating, ventilation and air conditioning, plumbing as described in Chapter 18.106 RCW and electrical as described in Chapter 19.28 RCW, and
2. The work those Subcontractors will perform on the Contract.
3. Shall not list more than one Subcontractor for each category of work identified, except, when Subcontractors vary with Bid alternates, in which case the Bidder shall identify which Subcontractor will be used for which alternate.

If no Subcontractor is listed, the Bidder acknowledges that it does not intend to use any Subcontractor to perform those items of work.

Proposals of corporations shall be signed by the officer or officers having authority to sign them. If a Bidder is a copartnership, the Proposal shall be signed by an authorized member of the copartnership. When the Bidder is a joint venture, the Proposal shall be signed by one or more individuals as authorized by the Joint Venture.

### **1-02.7 Bid Deposit**

A deposit of at least 5-percent of the total Bid shall accompany each Bid. This deposit may be by cash, certified check, cashier's check, or a proposal bond (Surety bond). Any proposal bond shall be on a form acceptable to the Contracting Agency and shall be signed by the Bidder and the Surety. A proposal bond shall not be conditioned in any way to modify the minimum 5-percent required. The Surety shall: (1) be registered



with the Washington State Insurance Commissioner, and (2) appear on the current Authorized Insurance List in the State of Washington published by the Office of the Insurance Commissioner.

The failure to furnish a Bid deposit of a minimum of 5-percent shall make the Bid nonresponsive and shall cause the Bid to be rejected by the Contracting Agency.

#### **1-02.8 Noncollusion Declaration and Lobbying Certification**

##### **1-02.8(1) Noncollusion Declaration**

When required by Section 112(c) Title 23, United States Code, a declaration shall be provided certifying that the Bidder has not taken part in collusion or other action that would restrain competitive Bidding.

The Code of Federal Regulations 23 CFR 635.112(f)(1) requires that: “Each Bidder shall file a sworn or unsworn statement executed by, or on behalf of the person, firm, association, or corporation submitting the Bid, certifying that such persons, firm, association, or corporation has not either directly or indirectly, entered into any agreement, participated in any collusion, or otherwise taken any action in restraint of free competitive Bidding in connection with the submitted Bid. Failure to submit the sworn or unsworn statement as part of the Bid Proposal package will make the Bid nonresponsive and not eligible for Award consideration.” In addition, 23 CFR 635.112(f)(1) requires that the Contracting Agency provide the form for the declaration to prospective Bidders and that the declaration shall be executed by such persons, firm, association, or corporation under penalty of perjury under the laws of the United States.

Therefore, by signing the Proposal, the Bidder will be deemed to have signed and agreed to the requirements of the Noncollusion Declaration.

##### **1-02.8(2) Lobbying Certification**

Section 319 of Public Law 101-121 prohibits payment of Federal Funds for contract lobbying by the Contractor and any Subcontractor or lower tier subcontractor whose contract exceeds \$100,000. A Certification for Federal-Aid Contracts (Form DOT 272-040) is provided in the Proposal Form for Contracts exceeding \$100,000 to address this requirement.

By signing the proposal, the Bidder will be deemed to have signed and agreed to the conditions and requirements of the Certification for Federal-Aid Contracts.

The Contractor shall ensure that a Certification for Federal-Aid Contracts (Form DOT 272-040) is included in every contract with any Subcontractor or lower tier subcontractor whose contract exceeds \$100,000. By signing the contract any Subcontractor or lower tier subcontractor will be deemed to have signed and agreed to the conditions and requirements of the Certification for Federal-Aid Contracts. The Contractor shall keep evidence in their files that such Subcontractor or lower tier subcontractor has committed to this requirement.

Section 319 of Public Law 101-121 also provides that, if any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal Contract, grant, loan, or cooperative agreement, the Contractor shall complete and submit to the Contracting Agency the Standard Form LLL, DISCLOSURE OF LOBBYING ACTIVITIES, in accordance with the instructions

on the form. Any Subcontractor or lower tier subcontractor whose contract exceeds \$100,000 shall disclose in the same manner as the Contractor, except that, Standard Form LLL shall be submitted to the Contractor for processing to the Contracting Agency.

Audits will be conducted to ensure compliance with this section.

The Certification for Federal-Aid Contracts (Form DOT 272-040) may be reproduced from the Proposal form. The disclosure form is available from the Washington State Department of Transportation's Pre-Contract Office, Transportation Building, Olympia, Washington 98504.

### **1-02.9 Delivery of Proposal**

Each Proposal shall be sealed and submitted in the envelope provided with it. The Bidder shall fill in all blanks on this envelope to ensure proper handling and delivery.

The Contracting Agency will not consider Proposals it receives after the time fixed for opening Bids in the call for Bids.

### **1-02.10 Withdrawal or Revision of Proposal**

After submitting a Bid Proposal to the Contracting Agency, the Bidder may withdraw or revise it if:

1. The Bidder submits a written request signed by an authorized person, and
2. The Contracting Agency receives the request before the time for opening Bids.

The original Bid Proposal may be revised and resubmitted as the official Bid Proposal if the Contracting Agency receives it before the time for opening Bids.

### **1-02.11 Combination and Multiple Proposals**

A project may be organized for Bidding and construction by various methods to enable proposals to be submitted for combined projects or for the construction method specified. The Contracting Agency reserves the right to Award combined or separate Bids or by such other method deemed most advantageous to the Contracting Agency. Only those combined Bids specifically prescribed in the project Special Provisions will be accepted. If contracts are Awarded for combinations of projects, separate contracts will be written for each project included in the combination.

A Bidder submitting more than one Proposal at a letting may attach one of the following statements to each Proposal:

"We prefer to be Awarded not more than (Number) Contracts for projects for which we have submitted Bids at this letting;" or

"We prefer to be Awarded Contracts of a total value of not more than \$\_\_\_\_\_ for projects for which we have submitted Bids at this letting."

Such attachments will not make the Proposals irregular. The Contracting Agency will Award each Contract to the lowest responsible Bidder but will consider such attachment in determining the responsibility of the Bidder to perform each Contract for which a statement has been attached.

### **1-02.12 Public Opening of Proposals**

Proposals will be opened and publicly read at the time indicated in the call for Bids unless the Bid opening has been delayed or canceled. Bidders, their authorized agents, and other interested parties are invited to be present.

**1-02.13 Irregular Proposals**

1. A Proposal will be considered irregular and will be rejected if:
  - a. The Bidder is not prequalified;
  - b. The authorized Proposal Form furnished by the Contracting Agency is not used or is altered;
  - c. The completed Proposal form contains any unauthorized additions, deletions, alternate Bids, or conditions;
  - d. The Bidder adds provisions reserving the right to reject or accept the Award, or enter into the Contract;
  - e. A price per unit cannot be determined from the Bid Proposal;
  - f. The Proposal form is not properly executed;
  - g. The Bidder fails to submit or properly complete a Subcontractor list, if applicable, as required in Section 1-02.6.
  - h. The Bidder fails to submit or properly complete a Disadvantaged, Minority or Women's Business Enterprise Certification, if applicable, as required in Section 1-02.6; or
  - i. The Bid Proposal does not constitute a definite and unqualified offer to meet the material terms of the Bid invitation.
2. A Proposal may be considered irregular and may be rejected if:
  - a. The Proposal does not include a unit price for every Bid item;
  - b. Any of the unit prices are excessively unbalanced (either above or below the amount of a reasonable Bid) to the potential detriment of the Contracting Agency;
  - c. Receipt of Addenda is not acknowledged;
  - d. A member of a joint venture or partnership and the joint venture or partnership submit Proposals for the same project (in such an instance, both Bids may be rejected); or
  - e. If Proposal form entries are not made in ink.

**1-02.14 Disqualification of Bidders**

A Bidder may be deemed not responsible and the Proposal rejected if:

1. More than one Proposal is submitted for the same project from a Bidder under the same or different names;
2. Evidence of collusion exists with any other Bidder. Participants in collusion will be restricted from submitting further Bids;
3. A Bidder is not prequalified for the Work or to the full extent of the Bid;
4. An unsatisfactory performance record exists based on past or current Contracting Agency Work;
5. There is uncompleted work (Contracting Agency or otherwise) which might hinder or prevent the prompt completion of the Work Bid upon;
6. The Bidder failed to settle bills for labor or materials on past or current Contracts;
7. The Bidder has failed to complete a written public contract or has been convicted of a crime arising from a previous public contract;



8. The Bidder is unable, financially or otherwise, to perform the Work;
9. A Bidder is not authorized to do business in the state of Washington; or
10. There are any other reasons deemed proper by the Contracting Agency.

**1-02.15 Pre-Award Information**

Before Awarding any Contract, the Contracting Agency may require one or more of these items or actions of the apparent lowest responsible Bidder:

1. A complete statement of the origin, composition, and manufacture of any or all materials to be used,
2. Samples of these materials for quality and fitness tests,
3. A progress schedule (in a form the Contracting Agency requires) showing the order of and time required for the various phases of the Work,
4. A breakdown of costs assigned to any Bid item,
5. Attendance at a conference with the Engineer or representatives of the Engineer, or
6. Any other information or action taken that is deemed necessary to ensure that the Bidder is the lowest responsible Bidder.